

Federal court ruled that using students' private Social Security data violated the Federal Privacy Act. The court ordered the Department to stop using the students' private information and to stop collecting on their student loans.

Even after this Federal court ruling, the Department failed to comply. The Department continued to illegally collect on the student loans of at least 16,000 defrauded students. The Department garnished wages, seized tax refunds, and wiped out some students' credit ratings.

Less than 3 weeks ago, a Federal court held Secretary Betsy DeVos in contempt of court and fined the Department \$100,000. The Federal magistrate judge who issued the contempt order said, "[T]here have to be some consequences for the violation of my order 16,000 times."

Mr. Menashi should not be rewarded for providing such bad legal advice with a lifetime appointment to the Federal bench.

While at the Department, Mr. Menashi also helped push new rules on campus sexual assault that the administration's own analysis concluded would dramatically reduce the number of sexual assault investigations. Under these new rules, a student who is the survivor of sexual assault would be subject to cross-examination by their attacker's representative at a live hearing.

In 2018, Mr. Menashi joined the White House Counsel's Office, where he has been a member of Stephen Miller's White House Immigration Strategic Working Group. This working group has helped push a number of extreme anti-immigrant policies, including the White House's policy of separating children from their families, a problem that still has not been fully remedied, despite a court order to do so.

At his hearing, Mr. Menashi refused to answer numerous basic questions about his work, including about his role in the administration's family separation policy. He also refused to answer written questions about whether he has worked or advised on matters relating to the whistleblower complaint and President Trump's call with Ukraine's President. Importantly, none of these questions asked Mr. Menashi about the substance of his advice. These questions simply sought to understand what matters he has worked on. His refusal to answer makes it difficult for us to fulfill our constitutional duty to advise and consent.

Mr. Menashi's earlier career is equally troubling. He criticized "Take Back the Night marches," which aim to stop campus sexual assault. He also wrote that the Supreme Court's decision in *Roe v. Wade* had codified the "radical abortion rights advocated by campus feminists." He wrote that gun control legislation is "pointless [and] self-defeating, because guns reduce crime," and he claimed that a major LGBT-rights organization had "incessantly

exploited the slaying of Matthew Shepard for both financial and political benefit." Mr. Menashi wrote that "charges of racism are typically overblown," and he compared affirmative action in college admissions to Nazi Germany's Nuremberg laws.

I want to close with a quote from a letter of opposition submitted by the Congressional Black Caucus. The CBC rarely takes a position on judicial nominees, but in this instance, felt compelled to do so. The CBC writes: "Menashi's writings show a willingness to discriminate against minorities, women and the LGBTQ community. Menashi, who has consistently spoken against diversity and inclusiveness, does not deserve a lifetime position on one of the most important appellate courts in this country."

In light of Mr. Menashi's record, it is hardly surprising that there is bipartisan opposition to his nomination.

I will vote no on Mr. Menashi's nomination, and I urge my colleagues on both sides of the aisle to do the same.

#### NOMINATION OF CHAD F. WOLF

Mr. VAN HOLLEN. Mr. President, I rise to object to the nomination of Chad Wolf to serve as DHS Undersecretary of the Office of Strategy, Policy, and Plans.

This nomination is yet another example of the Trump administration's chaotic and inhumane approach to immigration issues. DHS is the third largest Federal agency, and under the Trump administration, it has had four directors in less than 3 years. It has been widely reported that Republicans are rushing to confirm Mr. Wolf so that President Trump can then appoint him Acting DHS Secretary. He will be the fifth DHS Secretary and the third Acting. Rather than go through the normal channels of selecting a nominee and allowing Senators to properly vet and question the nominee, Republicans are going along with Trump's plan to circumvent Federal law.

When asked directly by my colleague, Senator ROSEN, about his role in formulating the family separation policy, Mr. Wolf denied any direct knowledge of that policy. Leaked emails later revealed that, as Secretary Nielsen's chief of staff, he presented her with a memo with options to deter migrants coming to the border. Separating parents from their children was the second option on that list. The family separation policy is repugnant to our country's values.

The timing of this nomination is especially concerning in light of the Supreme Court oral arguments this week on DACA. The Trump administration ended DACA and then rejected compromise legislation, written by a bipartisan group of Senators, that would have given over 700,000 Dreamers who have grown up here stability and, ultimately, a path to citizenship. When those Senators were negotiating an immigration deal, in an unprecedented

action, DHS Secretary Nielsen sent a letter lambasting the negotiations and accused them of undermining U.S. security.

The Trump administration has weaponized and poorly managed DHS, and I cannot support this nominee.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. CRAMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SASSE). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, all postcloture time is expired.

The question is, Will the Senate advise and consent to the Wolf nomination?

Mr. CRAMER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from South Dakota (Mr. ROUNDS).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 354 Ex.]

#### YEAS—54

Alexander	Fischer	Paul
Barrasso	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hawley	Roberts
Braun	Hoeven	Romney
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott (FL)
Collins	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sinema
Cramer	Lee	Sullivan
Crapo	Manchin	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young

#### NAYS—41

Baldwin	Hassan	Reed
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Schatz
Brown	Jones	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Smith
Carper	Klobuchar	Stabenow
Casey	Leahy	Tester
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Gillibrand	Peters	

#### NOT VOTING—5

Booker	Rounds	Warren
Harris	Sanders	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Steven J. Menashi, of New York, to be United States Circuit Judge for the Second Circuit.

Mitch McConnell, John Hoeven, Steve Daines, James E. Risch, Roger F. Wicker, Pat Roberts, John Thune, Mike Rounds, Roy Blunt, Mike Crapo, John Boozman, John Cornyn, Lindsey Graham, Thom Tillis, David Perdue, Chuck Grassley, Rick Scott.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Steven J. Menashi, of New York, to be United States Circuit Judge for the Second Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from South Dakota (Mr. ROUNDS).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Vermont (Mr. SANDERS), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The PRESIDING OFFICER (Mr. LANKFORD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 44, as follows:

[Rollcall Vote No. 355 Ex.]

### YEAS—51

Alexander	Fischer	Paul
Barrasso	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hawley	Roberts
Braun	Hoeven	Romney
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott (FL)
Cornyn	Johnson	Scott (SC)
Cotton	Kennedy	Shelby
Cramer	Lankford	Sullivan
Crapo	Lee	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young

### NAYS—44

Baldwin	Cardin	Cortez Masto
Bennet	Carper	Duckworth
Blumenthal	Casey	Durbin
Brown	Collins	Feinstein
Cantwell	Coons	Gillibrand

Hassan	Menendez	Sinema
Heinrich	Merkley	Smith
Hirono	Murphy	Stabenow
Jones	Murray	Tester
Kaine	Peters	Udall
King	Reed	Van Hollen
Klobuchar	Rosen	Warner
Leahy	Schatz	Whitehouse
Manchin	Schumer	Wyden
Markkey	Shaheen	

### NOT VOTING—5

Booker	Rounds	Warren
Harris	Sanders	

The PRESIDING OFFICER. On this vote, the yeas are 51, and the nays are 44.

The motion is agreed to.

### EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Steven J. Menashi, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. The Senator from Connecticut.

### UNANIMOUS CONSENT REQUEST—S. 1416

Mr. BLUMENTHAL. Mr. President, I am proud to be here to advocate on behalf of a bill that has enjoyed, rightly, bipartisan support: the Affordable Prescriptions for Patients Act.

We all know that the astronomically rising costs of prescription drugs are a burden—in fact a bane for Americans regardless of where they live, regardless of their party, race, religion, or age, but particularly for our seniors. The choice between paying the mortgage, putting food on the table, and buying prescription drugs has become a daily challenge for people across the country.

This bill offers a positive, solid step toward ending abuses in the use of patents—abuses that are called patent thickening and product hopping—that all too commonly raise the cost of prescription drugs and preclude access for the people who need those drugs the most.

This effort has been a bipartisan one involving many of us in this Chamber. It passed from the Judiciary Committee unanimously. It is a testament to the still-possible bipartisan cooperation on an issue of paramount concern to the people of America that we have reached this point of bringing it to the floor of the Senate.

I am proud to have worked on this measure with my colleague from Texas who has really helped to lead this effort, Senator CORNYN, who is here on the floor with me, and I am happy to yield to him now.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I thank the Senator from Connecticut for his leadership.

At a time when people see bipartisan ship in short supply in Washington, DC, this is one area where we can actually make some real progress for the people we represent.

We all know that climbing healthcare costs are keeping people up

at night. Many people reached out to me in my office about the impossible decisions they are required to make in order to keep pace with rising prescription drug costs—particularly the out-of-pocket costs—whether they pay some bills and have to defer or not pay others; whether they cut their pills in half or self-ration the medications, which is dangerous to their health, or don't fill prescriptions altogether because they simply can't afford the out-of-pocket costs. No family should be required to make those sorts of decisions.

Sadly, I know my constituents in Texas are not alone. The Kaiser Family Foundation poll in September found that the No. 1 healthcare concern of the American people is prescription drug prices. This is something the President has said he wants to address, the House has said they want to address, and the Senate has said we want to address, and this legislation we are talking about will help move the ball in the right direction.

A whopping 70 percent of people think growing prescription drug costs should be the top priority for Congress, which should make it our No. 1 item on our to-do list. The good news is, we are making some progress. Here in the Senate, we have taken a bipartisan approach, which is the only way to actually get things done in Congress. We talked to every major player in the supply chain, and we asked questions about whether confusing practices that are not transparent to outsiders are all combining to drive up costs.

What I find seriously concerning are the anti-competitive behaviors of some of the drug manufacturers, the gamesmanship, particularly when it comes to our patent system. We know companies pour a lot of time and money into the research and development of new medications, and we don't want to do anything to stop that. We want to incentivize that so that they are able to recover their costs and perhaps make a profit when the drug turns out to be successful. But we don't want them playing games with the patent system in a way that prevents others at some point, after that period of exclusivity, from being able to compete with a generic alternative.

Ninety percent of the drugs we take are generic, and that is why they are so affordable and so inexpensive, but for the top 10 percent of branded drugs that people take, many of them simply are unaffordable. These patents I refer to do protect the intellectual property for these key drugs and are an important part of the incredible innovation that occurs here in the United States, but increasingly we are seeing companies using the patent system as a shield for competition beyond the life of the patent.

It is time to put a stop to that. We can do that today. We can begin that process today. That is exactly why I introduced the Affordable Prescriptions for Patients Act with the Senator from